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Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term, 1972

No. 73-1911

IN THE MATTER OF THE APPLICATION OF

JULIUS P. CROWNE

For Admission to the Bar Examination of Florida

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF FLORIDA

JULIUS P. CROWNE,
In Proper Person,
87-10 51 Avenue,
Elmhurst, N. Y. 11373.
(212) 271-5383

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. .....

In the Matter of the Application of

JULIUS P. CROWNE

For Admission to the Bar Examination of Florida

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF FLORIDA

Petitioner respectfully prays that a writ of certiorari issue to review the final order of the Supreme Court of the State of Florida entered herein on May 7, 1973 denying rehearing of its order which approved the action of the Board of Bar Examiners (hereinafter the "Board") which denied petitioner's application for admission to the Bar Examination.

Opinion Below

Matter of Crowne, —— So. 2nd ——, 4/4/73, rehearing denied 5/7/73 [contained hereinafter at pp. 1A-5A].

Jurisdiction

The decision to be reviewed was made and entered on April 4, 1973 and is appended hereto, *infra* at p. 1A; rehearing was denied by order dated May 7, 1973 and is

appended at p. 10A. The jurisdiction of this Court is invoked under 28 U. S. C. Sec. 1257 (3) for certiorari to review the constitutionality of the action of the Court below.

Questions Presented for Review

Does the denial of admission to a Florida Bar Examination to an attorney in another State on the basis of his abstract of practice there and his application

(1) violate through overbreadth and excessive inequality in the filing fee of the application the privileges of citizens under Article IV of the Constitution and the Fourteenth Amendment;

(2) interfere with the right to practice law in violation of the Fifth and Fourteenth Amendments;

(3) violate the "void for vagueness" principle of the Constitution insofar as admission to a Bar Examination is based on an abstract of law practice;

(4) violate due process in depriving petitioner of a hearing before denying his application;

(5) violate due process in being based on a State law enacted in 1955 and applied retroactively to one who graduated from a law school back in 1932;

(6) impair the obligations of a contract in being so based?

Constitutional and Regulatory Provisions Involved

The principal constitutional provisions involved are Article IV section 2 of the United States Constitution and the Fifth and Fourteenth Amendments thereto.

Article IV, Sections 22b and 22c of the Rules of the Supreme Court of Florida, entitled "Relating to Admission to the Florida Bar" and Rule V, Sections 50 and 51 of the Rules and Regulations of the Florida Board of Bar Examiners, the only published State provisions applicable to this case, are set forth *infra* at pp. 6A, 8A and 9A.

Statement of the Case

Petitioner is 63 years old, a graduate of Brooklyn Law School in June, 1932, a member of the New York Bar, retired New York State Supreme Court Clerk and once Senior Attorney with the office of the Attorney-General of the State of New York.

By application executed September 29, 1972 petitioner applied for admission to the Spring, 1973 Bar Examination of Florida scheduled for July 24 and 25, 1973, paying the required fee.

At the same time petitioner completed a questionnaire requiring the names of ten persons who have known him well; also, three attorneys and two clients; and also, five other persons of reputation in his community.

He was required to submit with the application a fee of $400.00 as compared with others, who were not admitted to an out-of-state Bar, of whom a fee of only $110.00 was required.

Subsequently, at the Board's request, an amendment to the application was executed on February 9, 1973 furnishing petitioner's places of residence between 1923 and 1952; the addresses of certain public departments with whom petitioner had been associated in 1947, 1950-52 and 1956; information regarding a Small Claims Court default judgment which had been satisfied more than thirty years ago;

information regarding an uncontested divorce in Mexico during 1947; information regarding a short attendance at Queens College during 1959-60; and a certified copy of an answer in an action in which he was the plaintiff. At the same time the Board enclosed a form to be executed for transmission to the District of Columbia Police Department by reason merely of petitioner's residence in Washington during 1947, supplementing petitioner's fingerprints required to be taken by the New York City Police Department which were furnished together with his application.

Other certificates, affidavits, transcripts and letters were filed at the Board's request. A letter from the Board dated February 14, 1973 which was, of course, subsequent to their action of February 8-9, 1973 requested a certified copy of the Discontinuance of petitioner's action above referred to in which he was the plaintiff together with a Queens College transcript and a letter from the Administrative Justice of the Court regarding the unavailability of the Small Claims suit documents.

Prior to the Board's action they advised petitioner that attendance at Brooklyn Law School was not acceptable and that, in order to qualify for the Spring, 1973 Bar Examination, as an alternative, petitioner must file an abstract of his practice covering the most recent ten years. The abstract which he has been obliged to file relates to a period whose duration expired 23 years ago. Petitioner has made plain to the Board the impossibility of furnishing the details they request covering the last ten years going back 23 years first and no hearing was ever afforded him at which he could have had the opportunity of convincing them of his qualifications.

Petitioner was subsequently notified by the Board, which at first informed him that the fee for his application

would be *$300.00* as compared with *$100.00* for others who were not admitted to an out-of-state Bar, that the fees had been raised to *$400.00* and *$110.00* respectively. The increased fee was paid, however.

The Board, by a Notice of Board Action dated February 15, 1973, then notified your petitioner that his application for admission to the Bar Examination was denied. Relief was requested from the Supreme Court of Florida which held original jurisdiction from the Board's action, but the petition was denied without prejudice to proceeding by applying anew to the Board. A petition to the Court for rehearing of the application was denied.

Pursuant to the original decision granting leave to apply anew, application was once more made to the Board by filing a supplemental abstract together with supporting evidence but the renewed application was also denied as appears from its letter of May 31, 1973.

The Federal questions were raised in the original, amended and rehearing petitions presented to the Court below. They were not passed upon by it. In paragraph 3 of the original petition the action of the Board is described as arbitrary. Paragraph 2 of the amended petition elaborates on this by asserting, "The Third Paragraph thereof (i.e., the original petition) should be amplified to indicate that the arbitrary action complained of also constituted a deprivation of your Petitioner's constitutional rights in that he was denied the opportunity of a hearing to determine how the Board arrived at its decision. . . ." The first Paragraph of the petition for rehearing sets forth "That he (i.e., Petitioner) is being denied his constitutional rights of due process, equal protection and recognition as a citizen of another state. . . ."

Reasons Relied On for the Allowance of the Writ

1. This case presents for determination whether the states should be permitted to predicate sitting for a Bar Examination by attorneys admitted to the bar *in another state* on an abstract of practice covering the most recent ten years thereof; whether they should be clothed with broad discretion by their own self-serving Rule in doing so; and whether the application fee for such attorneys should be significantly higher than for those applicants who are not attorneys admitted to an out-of-state bar. It is the position of this Court that the practice of law is not a matter of the state's grace, *Schware* v. *Board of Bar Examiners,* 353 U. S. 232, note 5; *Willner* v. *Committee on Character and Fitness,* 373 U. S. 96, but a matter of right, *Schware* v. *Board, supra.* A careful search fails to indicate that the principles involved herein have been passed upon by this Court though they are even more prejudical than these cases.

2. "A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment". These were the words written by Black, J. in a case where the petitioner's character and fitness were involved by reason of arrests for membership in the Communist Party and for using aliases. *Schware* v. *Board, supra.* The instant case is more extreme in that the petitioner is excluded from even the Bar Examination by arbitrary action under the guise of a Rule requiring an abstract of ten years of practice. Whether a state can unequally arrogate to itself the power to exercise "broad discretion" and require such an abstract after 23 years is a matter which this Court should settle.

3. Petitioner is entitled to sit for the Bar Examination since he has been denied such right without a hearing. *Harrington* v. *State Bar of Cal.*, 292 P 456; *Goldsmith* v. *U. S. Board of Tax Appeals*, 270 U. S. 117.

The state has thus acted in direct conflict with decisions of this Court.

4. The fee discriminating against out-of-state attorneys is repugnant to Article IV, sec. 2; *Ward* v. *Maryland*, 12 Wall. 418; *Ward Baking Co. et al.* v. *City of Fernandino, et al.*, 29 F 2nd 789 and is void. To the same effect is *Toomer et al.* v. *Witsell, et al.*, 334 U. S. 385.

5. Due process and equal protection have also been denied by the discriminating fee. *Campbell Baking Co.* v. *City of Harrisonville*, 19 F 2nd 159; *Bethlehem Motors Corp., et al.* v. *Flynt*, 256 U. S. 421.

6. The Florida Supreme Court has clothed the Board with "broad" discretion and made no provisions for any notice of hearing for the review of arbitrary action.

7. Denial of petitioner's application to sit for the Bar Examination should have been avoided by not giving effect retroactively to a law enacted in 1955 to one who had graduated from a law school in 1932.

CONCLUSION

The petition for a writ of certiorari should be granted.

JULIUS P. CROWNE,
In Proper Person,
87-10 51 Avenue,
Elmhurst, N. Y. 11373.

APPENDIX

Order and Per Curiam Opinion of the Supreme Court of the State of Florida

In the Supreme Court of Florida
January Term, A. D. 1973

Florida Board of Bar Examiners — Case No. 43,439

In Re: Julius P. Crowne

Opinion filed April 4, 1973

Case of Original Jurisdiction—The Florida Board of Bar Examiners

Julius P. Crowne, in proper person, Petitioner

Thomas T. Cobb and C. Graham Carothers, for Florida Board of Bar Examiners, Respondent

PER CURIAM.

The Florida Board of Bar Examiners has declined to accept petitioner Julius P. Crowne's application for admission to the Florida Bar examination. Petitioner seeks relief in this Court via petition for review pursuant to Article IV, Section 21(a) of the Rules Relating to Admissions to The Bar.

It appears from the record that petitioner graduated from the Brooklyn Law School in June, 1932, with an L.L.B. degree. The school was not provisionally approved by the American Bar Association until 1937 and has never become a member of the Association of American Law Schools. Accordingly, petitioner is not in compliance with the prerequisite of Article IV, Section 22(b) of the Rules,

requiring "graduation from a full-time accredited law school at a time when, or in the same calendar year in which such school was so accredited". The term "accredited law school" is defined by Section 22(b) to include "any law school approved or provisionally approved by the American Bar Association or which is a member of the Assocation of American Law Schools".

However, the Rules provide an alternate method whereby persons in petitioner's situation may qualify for admission to the Bar examination. Pursuant to Article IV, Section 22(c) of the Rules, an attorney in good standing in the Bar of a state who practiced law in that state for a 10-year period may be admitted to the Bar examination although he or she failed to graduate from an accredited law school. The Rule is detailed and clothes the Board with broad discretion in evaluating applicants seeking admission thereunder:

> "(c) Attorneys who were in good standing in the District of Columbia and in the States of the United States of America may, notwithstanding the provisions of Sections 22(a) and 22(b) hereof, be permitted to take the bar examination to be admitted to the practice of law in Florida (1) upon furnishing similar requirements as to fitness, except as required by Sections 22(a) and 22(b), as are required of other candidates to take the examination; (2) upon producing such evidence as the Board may require, that such applicant was in the practice of law in the District of Columbia or in other States of the United States of America, or in practice in federal courts in territories, possessions or protectorates of the United States for at least ten years,

and that he was in good standing at the bar of the District of Columbia, the territory, possession or protectorate, or of the State from which he came; and (3) upon furnishing to the Board an abstract showing the scope and character of the applicant's previous experience and practice at the bar, including samples of the quality of the applicant's work, such as pleadings, briefs, legal memoranda, corporate charters or other working papers which the applicant considers illustrative of his expertise, his academic and his legal training. Such abstract should confine itself to the applicant's most recent ten years of practice. If a thorough consideration of this abstract shows that the applicant is a lawyer of high character and ability, that his professional conduct has been above reproach, and that his academic and legal scholarship conform to approved standards and sum up to the equivalent of that required of other candidates for admission to the examination, the Board may, in its discretion, admit him to the examination. In evaluating academic and legal scholarship the Board is clothed with a broad discretion."

Petitioner was admitted to the Bar of the State of New York on November 13, 1933 and a certificate of the Clerk of the Appellate Division of the Supreme Court of the State of New York dated September 29, 1972 indicates that he continues in good standing as a member of the New York bar. Petitioner asserts that he practiced law in New York continuously between the years 1933 and 1943, at which time he entered service with the War Department in Washington. He again entered the practice of law in

1947 and continued to practice until 1950. Thereafter he worked two years as an adjuster for the Public Works Department of the State of New York and then accepted an appointment as Clerk of a division of the Supreme Court of New York. He was employed in that position until his retirement last year and decision to move to Florida.

The difficulty with petitioner's application appears largely to surround the "abstract of practice" furnished by him to the Board of Bar Examiners. The abstract is, as the Board asserts, "inadequate for reasons which are made clear by examination thereof". In his "abstract" petitioner states, *inter alia*:

> "The attention of the Board is respectfully called to the fact (as disclosed in the application) that the applicant has not been engaged in the practice of law since 1950, almost 23 years ago and, starting with 1933 up to 1943 there was an interval from 1943 to 1947 when it was again resumed up to 1950. In those circumstances, with my records disposed of, any details would be impossible to furnish."

There is no requirement in the Rules Relating to Admissions to the Bar that an applicant's practice be recent, but passage of time does not excuse compliance with the requirements of Section 22(c). As we said in *Petition of Klein*, 259 So. 2d 144 (Fla. 1972),

> ". . . Recently, in Diaz v. Florida Board of Bar Examiners, 252 So. 2d 366 (Fla. 1971), we indicated that demonstration of practice was a relatively flexible requirement. It is not designed to thwart an applicant, but rather to establish assurance of an applicant's ability and capacity to function as a

> lawyer. For this reason, Section 22(c)(3), which governs this route to the Bar Examination, states that in evaluating the work of an applicant, '[T]he Board is clothed with a broad discretion.' "

It is apparent the abstract produced by petitioner is insufficient to allow the Board to evaluate his "ability and capacity to function as a lawyer" and thus in our judgment the Board correctly denied his application for admission to the Florida Bar Examination. However, petitioner's background suggests that he may well be qualified to enter the practice of law should he produce the necessary material required by Section 22(c)(3). Accordingly, as in *Petition of Klein, supra,* we deem it appropriate to deny the petition without prejudice to petitioner to apply anew at a later date, when he can supply the Board with reasonably accurate details of the extent of his legal practice, supported by appropriate documentation. The Board may then evaluate his experience and determine whether he "is a lawyer of high character and ability", whether "his professional conduct has been above reproach", and whether "his academic and legal scholarship conform to approved standards and sum up to the equivalent of that required of other candidates for admission to the examination".

The petition is denied without prejudice to petitioner to proceed in the manner above indicated.

It is so ordered.

CARLTON, C.J., ADKINS, BOYD, MCCAIN and DEKLE, JJ., Concur

Article IV: Rules Relating to Admission to the Florida Bar

Section 22. Every applicant is also required:

. . .

(b) To furnish the Board satisfactory evidence of graduation from a full-time accredited law school at a time when, or in the same calendar year in which such school was so accredited, and that such accredited law school has conferred upon the applicant the degree of Bachelor of Laws or Doctor of Jurisprudence. The term, "accredited law school", has reference to any law school approved by the American Bar Association or which is a member of the Association of American Law Schools. None of the following shall be substituted for law school training:

1. Private study, correspondence school or law office training;
2. Age or experience;
3. Waived or lowered standards of legal training for particular persons or groups.

For the purpose of enforcement of this rule a degree in law shall be deemed conferred and the applicant graduated when the Dean of the Law School certifies to the Board that the applicant has completed the requirements for graduation and that the degree will be conferred.

(c) Attorneys who were in good standing in the District of Columbia and in the States of the United States of America may, notwithstanding the provisions of Sections 22(a) and 22(b) hereof, be permitted to take the bar examination to be admitted to the practice of law in Florida (1) upon furnishing similar requirements as to fitness, except as required by Sections 22(a) and 22(b), as are required of other candidates to take the examination; (2) upon producing such evidence as the Board may require, that such applicant was in the practice of law in the District

of Columbia or in other States of the United States of America for at least ten years, that he was in good standing at the bar of the state from which he came; and (3) upon furnishing to the Board an abstract showing the scope and character of the applicant's previous experience and practice at the bar, including samples of the quality of the applicant's work, such as pleadings, briefs, legal memoranda, corporate charters or other working papers which the applicant considers illustrative of his expertise, his academic and his legal training. Such abstract should confine itself to the applicant's most recent ten years of practice. If a thorough consideration of this abstract shows that the applicant is a lawyer of high character and ability, that his professional conduct has been above reproach, and that his academic and legal scholarship conform to approved standards and sum up to the equivalent of that required of other candidates for admission to the examination, the Board may, in its discretion, admit him to the examination. In evaluating academic and legal scholarship the Board is clothed with a broad discretion.

Notice of Board Action of Florida Board of Bar Examiners

FLORIDA BOARD OF BAR EXAMINERS
NOTICE OF BOARD ACTION

Date February 15, 1973

To: Mr. Julius P. Crowne
87-10 51 Avenue
Elmhurst, L. I., New York 11373

This will advise you that this Board, while in formal session in Jacksonville, Florida, during February 8-9, 1973, after having carefully considered the abstract of practice filed by you on October 5, 1972 and information

in your application complementing your abstract, determined that you have failed to provide sufficient grounds to justify the Board in finding you qualified under the provisions of Article IV, Section 22(c), of the Rules of the Supreme Court of Florida Relating to Admissions to The Bar and the Board so ruled. Your application for admission into the Spring (July) 1973, Florida Bar Examination was denied.

(Seal)

JAMES B. TIPPIN, JR.
Executive Director

Notice of Increase in Fees of Florida Board of Bar Examiners

NOTICE OF INCREASE IN FEES
FLORIDA BOARD OF BAR EXAMINERS

Supreme Court Building
Tallahassee 32304

Notice to All Applicants

For Admission to The Florida Bar Examination
Which Will Be Administered During
July 24 and 25, 1973,

And Subsequent Examinations

In compliance with a recent order of the Supreme Court of Florida, the fees specified under Rule V of the Rules Relating to Admission to The Florida Bar will reflect the following:

Rule V, Section 50	$110.00
Rule V, Section 51	$400.00

James B. Tippin, Jr., Executive Director

Rule V, Sections 50 and 51 Prior to Notice of Increase

Section 50. The application of applicants described in Section 2 (i.e. who have not been admitted to the Bar in any other jurisdiction) shall be accompanied by a fee of $100.00.

Section 51. The application of applicants described in Section 3 (i.e. all others) shall be accompanied by a fee of $300.00.

Order Denying Rehearing of Petition

IN THE

SUPREME COURT OF FLORIDA

JANUARY TERM, A. D. 1973

MONDAY, MAY 7, 1973
CASE NO. 43,439

FLORIDA BOARD OF BAR EXAMINERS

In Re: JULIUS P. CROWNE,

On consideration of the petition for rehearing filed by Julius P. Crowne,

IT IS ORDERED by the Court that said petition be and the same is hereby denied.

CARLTON, C. J., ADKINS, BOYD, MCCAIN and DEKLE, JJ., concur

A True Copy

TEST:

Sid J. White
Clerk Supreme Court.
By (Illegible)

Y

CC: Mr. Julius P. Crowne
Hon. C. Graham Carothers
Hon. James B. Tippin

Letter of the Board Dated May 31, 1973 Denying Renewed Application

(Letterhead of)

FLORIDA BOARD OF BAR EXAMINERS

May 31, 1973

Mr. Julius P. Crowne
87-10 51 Avenue
Elmhurst, L. I., New York 11373

Dear Mr. Crowne:

This will advise you that this Board, while in formal session in Miami, Florida, during May 25, 1973, after having carefully considered the abstract of practice filed by you on October 5, 1972, the supplemental abstract filed by you on May 15, 1973, and information in your application complementing your abstract, again determined that you have failed to provide sufficient grounds to justify the Board in finding you qualified under the provisions of Article IV, Section 22(c) of the Rules of the Supreme Court of Florida Relating to Admissions to The Bar and the Board so ruled.

In addition to the foregoing, the Board considered your request for admission to the examination prior to the establishment of your qualifications under the provisions of Article IV, Section 22(c), of the Supreme Court Rules and again held that it is without authority to waive the Rules of the Supreme Court of Florida.

Your application for admission into the Spring (July) 1973 Florida Bar Examination was denied.

Sincerely,

JAMES B. TIPPIN, JR.
James B. Tippin, Jr.
Executive Director

JBT/jas

Certified Mail No. 816207
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SUPREME COURT, U. S.

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1972

No. 73–19

In the Matter of the Application of
JULIUS P. CROWNE
For Admission to the Bar Examination of Florida
PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF FLORIDA

BRIEF FOR THE FLORIDA BOARD OF BAR EXAMINERS IN OPPOSITION

C. GRAHAM CAROTHERS
Attorney for Board
P. O. Box 391
Tallahassee, Florida, 32302

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1972

No. 73–19

In the Matter of the Application of

JULIUS P. CROWNE

For Admission to the Bar Examination of Florida

PETITION FOR WRIT OF CERTIORARI TO

THE SUPREME COURT OF FLORIDA

BRIEF FOR THE FLORIDA BOARD OF BAR EXAMINERS IN OPPOSITION

OPINIONS BELOW

The order of the Supreme Court of Florida filed April 4, 1973 denying Petitioner's application for an order allowing him

to sit for Florida's Spring, 1973 bar examination, without prejudice to Petitioner to reapply and supply the Florida Board of Bar Examiners with reasonably accurate details and appropriate documentation of the extent of his legal practice is found at Appendix, Pages A1–A5 of the Petition. The order of the Supreme Court of Florida denying rehearing was filed May 7, 1973 and is found at Appendix, Page A-10 of the petition.

JURISDICTION

The order sought to be reviewed was entered on April 4, 1973. Petitioner sought a rehearing which was denied on May 7, 1973. The Petitioner seeks to invoke the jurisdiction of this Court under 28 U.S.C. Section 1257(3).

QUESTIONS PRESENTED FOR REVIEW

1. Whether a State may deny an applicant the right to take the bar examination when the applicant fails to meet ordinary legal academic standards prescribed by that state.

2. Whether an applicant who is denied admission to the bar examination because he failed to meet legal academic requirements is entitled to a hearing before such denial is made.

3. Whether it is constitutionally permissible to charge out-of-state, licensed attorneys a higher application fee to take the Florida Bar Examination than is charged other out-of-state applicants.

STATEMENT OF THE CASE

On October 5, 1972, Petitioner applied for admission to Florida's Spring, 1973 bar examination scheduled for July 24–25, 1973. Section 22(a), Article IV, *Rules of the Supreme Court of Florida Relating to Admissions to the Bar* (hereinafter "Rules"), requires three years' in-residence work at an accredited undergraduate college or university, or its equivalent (Appendix A, p. 11) Section 22(b), Article IV of the Rules requires applicants to be graduates of a full-time accredited law school (Appendix A, p. 12) The term "accredited law school" was defined by such rule to refer to any law school approved or provisionally approved by the American Bar Association or which is a member of the Association of American Law Schools. The Petitioner could not meet the requirement of Section 22(b) in that the law school from which he graduated had never become a member of the Association of American Law Schools and was not provisionally approved by the American Bar Association until 1937, some five years after Petitioner's graduation. However, an exception to the above-mentioned rules is provided by Section 22(c) of Article IV of the Rules, which permits an applicant to submit an abstract of 10 years of practice in the District of Columbia or in a sister state and

> "If a thorough consideration of this abstract shows . . . that his academic and legal scholarship conform to approved standards and sum up to the equivalent of that required of other candidates for admission, the Board may, in its discretion, admit him to the examination." (Appendix A, p. 13)

Following Petitioner's request for forms of application, he was advised by the Florida Board of Bar Examiners that he did not

meet the requisite educational requirements and that it would be necessary for Petitioner to qualify under Section 22(c) of Article IV of the Rules in order to sit for the Florida Bar Examination (Appendix B, p. 15). Further, such letter contained detailed and explicit instructions on how to prepare an abstract under Section 22(c) Appendix B, p. 15). Section 22(c) of the aforesaid Rules requires an abstract showing the scope and character of the applicant's previous experience and practice at the bar, and requires samples of the applicant's work such as pleadings, briefs, legal memoranda, corporate charter or other working papers which the applicant considers illustrative of his expertise, academic and legal training. (Appendix A, p. 13) The Petitioner filed a one-page memorandum, to which was attached a six page civil complaint drawn by Petitioner. (Appendix C, p. 19) The memorandum alleged that Petitioner was unable to furnish any additional samples of his work by reason of his not having actively practiced law subsequent to 1950. The Board, by a Notice of Board Action dated February 15, 1973, notified the Petitioner that his application for admission to the bar examination was denied, (Pet. Appendix 7A). The Petitioner sought relief from the Supreme Court of Florida. His petition to that court alleged (in paragraphs 3 and 7) that he was not seeking admission under Section 22(c) of the Rules (Appendix D, p. 20) It is patently clear, however, that Petitioner did not graduate from an accredited law school so as to qualify to sit for the Florida Bar Examination unless he could comply with the provisions of Section 22(c). It was, therefore, unclear on what basis Petitioner sought relief in the Supreme Court of Florida. His petition to that court was denied without prejudice to the Petitioner to reapply to the Board and furnish "reasonably accurate details of the extent of his legal practice supported by appropriate documentation." (Pet. Appendix 1A–5A)

A petition to the Supreme Court of Florida for rehearing was denied on May 7, 1973 (Pet. Appendix, 9A). Thereafter, the Petitioner again made application to the Board of Bar Examiners by filing a supplemental abstract on May 15, 1973. The renewed application was denied by the Board on the ground that he had still failed to provide sufficient information to justify the Board in finding him qualified under the provisions of Section 22(c), Article IV of the Rules of the Supreme Court of Florida Relating to Admissions to the Bar. Petitioner was so notified by Notice of Board Action dated May 31, 1973 (Pet. Appendix 10A)

The Petitioner did not seek review of the Board's action of May 31, 1973, and such action has not been reviewed by the Supreme Court of Florida. Petitioner, therefore, has not exhausted all remedies available to him below. Petitioner herein now seeks certiorari directed to the Supreme Court of Florida on the basis of that Court's order entered on April 4, 1973 (Pet. Appendix 1A–5A) and the denial of the petition for rehearing (Pet. Appendix 9A).

Petitioner stated in his petition to the Supreme Court of Florida that he was not attempting to qualify under Section 22(c) of the Rules. (Appendix D, p. 20) However, his petition to this Court is almost solely based on an attack of the constitutionality of Section 22(c) as he seeks to raise various constitutional objections to such rule. It is difficult to determine on what grounds Petitioner bases his objections by reading his brief. Apparently, Petitioner claims that such rule is in derogation of the Fifth and Fourteenth Amendments to the Constitution of the United States. Petitioner also asserts, under the same constitutional provisions, that Rule 22(c) is vague and therefore constitutionally defective and further that he was

unconstitutionally deprived of a hearing before his application was denied. Petitioner also asserts that denial of admission to the bar examination impairs the obligation of a contract, although he never identifies the "contract" to which reference is made.

REASONS FOR DENYING THE WRIT

1. A state can require high standards of qualification such as . . . proficiency in its law before it admits an applicant to the Bar so long as such standards or qualifications have a rational connection with the applicant's fitness or capacity to practice law. *Schware v. Board of Bar Examiners*, 355 U.S. 232, L.Ed.2d 796, 77 S.Ct. 752 (1957). The fact that an attorney has been licensed in another state does not automatically entitle him to practice in any state other than that in which he is licensed. The requirement of training and graduation from an accredited law school is, on its face, reasonable and rationally related to the fitness to practice law. The State of Florida was not required to permit an exception to this requirement, but has done so, permitting the Board of Bar Examiners to consider an abstract submitted by an applicant to establish, if possible, that he possesses the equivalent of the requisite academic requirements. Such requirement is also reasonable and rationally related to the determination of an applicant's fitness to practice law. Petitioner's abstract (Appendix C, p. 19) is simply inadequate to establish or allow the Board of Bar Examiners to infer that Petitioner possesses the requisite expertise and academic and legal scholarship required by the Supreme Court of Florida.

2. Petitioner, under the facts of the instant case, is not entitled to a hearing before being denied the right to sit for

the Florida Bar Examination. Admittedly, as in the cases cited by Petitioner, where a person shows that he is in full compliance with all the Court's rules and is denied admission to practice, he is entitled to a hearing and the opportunity to rebut the basis for such denial. Both cases cited by Petitioner turned on subjective opinions as to fitness of character. However, in the instant case, the Petitioner clearly shows by his application that he is not within the class of those entitled to be admitted to the Bar examination under the Rules of the Supreme Court of Florida. See *Brooks v. Laws*, 208 Fed. 18 (Dist. of Col. 1953). Further, the Petitioner has not been permanently denied the opportunity to practice law in Florida or sit for the Bar examination. As the Supreme Court of Florida noted in its opinion of April 4, 1973 (Pet. Appendix 1A–5A) the Petitioner's request for relief was denied without prejudice to reapply at a later date when he can fully comply with the Court's rules.

3. This Court has specifically recognized that a State is not without power to charge non-residents a differential in licensing matters where the increased fee would merely compensate the State for any added burden the State may incur because the applicant for the license is a non-resident. *Toomer v. Witsell*, 334 U.S. 385 at 398, 399 (1947). Also see *American Commuters Association v. Levitt*, 279 F.Supp 40 at 48 (S.D. New York, 1967).

The application used by the Florida Board of Bar Examiners contains three sections. Section "B" of such application is to be completed only by those applicants who have been previously admitted to practice law in any jurisdiction or court. (Appendix E, p. 22) In addition to making its normal routine checks as to character and fitness of an applicant, where the applicant has

been previously licensed, the Board of Bar Examiners must make an extensive, and necessarily more expensive, review of the expanded application by verifying and analyzing the information contained in Section B of the application form. (Appendix E, p. 22) Therefore, to cover the expenses of such investigation, practitioners from other states who apply to take the Florida Bar examination are charged a higher application fee. Such is not unequal treatment under the law since licensed practitioners constitute a special class of applicants. Further, the fee charges is not so onerous as to effectively prohibit out-of-state practitioners from applying for admission to practice in Florida.

4. Petitioner's allegation that the U.S. Constitution is violated because a "state law enacted in 1955" is applied retroactively is totally without basis for a number of reasons. First, Rule 22(c) is not a "state law," but is a rule promulgated by the Supreme Court of Florida in the exercise of its exclusive jurisdiction to regulate the admission of persons to the practice of law under Article V of the Constitution of the State of Florida. Further, such rule is not applied "retroactively" so as to disbar anyone who is previously admitted to practice. As far back as 1945, Florida has made provision for those applicants who were unable to meet all academic requirements of the state, but who were licensed to practice in jurisdictions other than Florida (Appendix F, p. 26) The applicant applied for admission to the bar examination long subsequent to the promulgation of this rule and should not be now heard to complain simply because he cannot fall within any exceptions to requisite academic requirements for admission to the bar examination.

5. Rule 22(c) on its face is not vague and, therefore,

constitutionally void, but is alternatively quite detailed and explicit in what is required to comply with the rule (Appendix A, p. 13) and as previously noted, the Petitioner received detailed instructions on how to prepare an abstract (Appendix B, p. 15) Nowhere in his petition is it alleged that the Petitioner can now comply with the academic requirements of the Rules, nor does he allege that he can now offer additional evidence of practice or related matters that would bring him under the exception provided by Rule 22(c). Instead, Petitioner would ask this Court to promulgate an additional rule for the Supreme Court of Florida which would require a further exception to the academic standards established by that Court; in fact, the Petitioner would have this Court by fiat impose a rule on the Florida Board of Bar Examiners requiring them to orally examine every licensed, out-of-state practitioner who does not otherwise meet the requisite academic standards of Rule 22(a) and 22(b) to determine if he is qualified to take the bar examination. The Supreme Court of Florida has, however, determined that the best means of determining academic qualifications is to see written examples of one's work over an extended period of time.

The decision as to whether practice in another state and related experience constitutes the equivalent of pre-legal education and law school graduation is necessarily a substantive determination. Petitioner's abstract simply failed to establish in the opinion of the Board and of the Court, the academic equivalency contemplated by the Rules.

CONCLUSION

Applicant was denied admission to the Florida Bar Examination because he failed to satisfy academic equivalency require-

ments. No question of due process is raised by such denial. There are no substantial questions here which merit the Court's time and attention.

For the foregoing reasons, the petition for writ of certiorari should be denied.

Respectfully submitted

C. Graham Carothers
Attorney for Respondent
P.O. Box 391
Tallahassee, Florida, 32302

APPENDIX A

RULES OF THE SUPREME COURT OF FLORIDA

Relating to Admission to the Bar
(In effect in 1972-73)

ARTICLE IV

EDUCATIONAL, CHARACTER AND FITNESS REQUIREMENTS

Section 22

Every applicant is also required:

(a) To furnish the Board satisfactory evidence that the applicant has completed at least *three years'* in-residence college work, or its equivalent, such college work to consist of a minimum of three-quarters of work acceptable for an academic Bachelor's Degree granted on a basis of a four-year period of study in a college or university on the approved list of any one of the following regional accrediting associations or any Florida college or university approved by the Florida Supreme Court, approval to be withdrawn if accreditation is not met within a period approved by the accrediting agency:

1. New England Association of Colleges and Secondary Schools;

2. Middle States Association of Colleges and Secondary Schools;

3. North Central Association of Colleges and Secondary Schools;

4. Southern Association of Colleges and Secondary Schools;

5. Northwest Association of Secondary and Higher Schools;

6. Western College Association;

at a time when, or in the same calendar year in which such school was so accredited.

This section shall be applicable only to those applying for admission to the Bar who enrolled in any accredited law college subsequent to December 31, 1960. All other applicants shall be governed by previous Section 22 (a) of Article IV of the rules aforesaid. (At least two years' in-residence college work, or its equivalent.)

(b) To furnish the Board satisfactory evidence of graduation from a full-time accredited law school at a time when, or in the same calendar year in which such school was so accredited, and that such accredited law school has conferred upon the applicant the degree of Bachelor of Laws or Doctor of Jurisprudence. The term, "accredited law school," has reference to any law school approved or provisionally approved by the American Bar Association or which is a member of the Association of American Law Schools. None of the following shall be substituted for law school training;

1. Private study, correspondence school or law office training;

2. Age or experience;

3. Waived or lowered standards of legal training for particular persons or groups.

For the purpose of enforcement of this rule a degree in law shall be deemed conferred and the applicant graduated when the Dean of the Law School certifies to the Board that the applicant has completed the requirements for graduation and that the degree will be conferred.

(c) Attorneys who were in good standing in the District of Columbia and in the States of the United States of America may, notwithstanding the provisions of Secions 22(a) and 22(b) hereof, be permitted to take the bar examination to be admitted to the practice of law in Florida (1) upon furnishing similar requirements as to fitness, except as required by Sections 22(a) and 22(b), as are required of other candidates to take the examination; (2) upon producing such evidence as the Board may require, that such applicant was in the practice of law in the District of Columbia or in other States of the United States of America, or in practice in federal courts in territories, possessions or protectorates of the United States for at least ten years, and that he was in good standing at the bar of the District of Columbia, the territory, possession or protectorate, or of the State from which he came; and (3) upon furnishing to the Board an abstract showing the scope and character of the applicant's previous experience and practice at the bar, including samples of the quality of the applicant's work, such as pleadings, briefs, legal memoranda, corporate charters or other working papers which the applicant considers illustrative of his expertise, his academic and his legal training. Such abstract should confine itself to the applicant's most recent ten years of practice. If a thorough consideration of this abstract shows that the applicant is a lawyer of high character and

ability, that his professional conduct has been above reproach, and that his academic and legal scholarship conform to approved standards and sum up to the equivalent of that required of other candidates for admission to the examination, the Board may, in its discretion, admit him to the examination. In evaluating academic and legal scholarship the Board is clothed with a broad discretion.

APPENDIX B

LETTER OF TRANSMITTAL AND INSTRUCTIONS FOR PREPARING ABSTRACT OF PRACTICE

September 19, 1972

Mr. Julius P. Crowne
87-10 51 Avenue
Elmhurst, New York 11373

Dear Mr. Crowne:

[ ] Rules enclosed without charge.

Enclosed is Receipt No. 38836, in the amount of $5.00 as your proof of having remitted the applicable fee(s) for the purchase of:

[x] One set of forms of application

[ ] for registration

[x] for admission into the Florida Bar Examination.

THE COST OF THE ABOVE ITEM MAY BE DEDUCTED FROM THE APPROPRIATE FEE TO ACCOMPANY ANY APPLICATION FOR REGISTRATION OR ADMISSION INTO A FLORIDA BAR EXAMINATION WHICH YOU MAY SUBSEQUENTLY FILE WITH THIS BOARD, *PROVIDED THAT THE ENCLOSED RECEIPT IS ATTACHED*

TO SUCH APPLICATION. (Do not deduct the amount paid for the purchase of former questions or documents.)

NOTICE: *This receipt cannot be replaced, or the credit transferred to another person.*

☐ One set of questions from two previously-administered Florida Bar Examinations.

☐ Copy of document(s) previously filed. (The document requested by you consists of _____ pages.)

There is absolutely no residence requirement for admission into the Florida Bar Examination.

Very truly yours,

James B. Tippin, Jr.
Executive Director

Please see page 2.

vm/am

Our records indicate that Brooklyn Law School was not provisionally approved by the American Bar Association until 1937 and has never become a member of the Association of American Law Schools. You state that you were graduated in 1932; therefore, your attention is invited to the following:

In that you do not meet the requirements of Article IV, Section 22(b), of the Rules, the only means whereby you may attempt to qualify is under the provisions of Article IV, Section 22(c). Applicants for the Spring (7/24, 25) 1973 Florida Bar Exam-

ination attempting to qualify under the provisions of Article IV, Section 22(c), must file an abstract of their practice by 12/13/72.

Please note the following in drafting your abstract of practice:

1. By all means sacrifice brevity and modesty in favor of being as thorough as it is humanly possible to be when drafting your abstract of practice.

2. It is not required that you include in your abstract every law suit which you have handled. However, you should make certain to include a thoroughly representative number of cases on which you have had the primary responsibility covering a ten-year period of your practice. This should include the style of the cause, the docket number if it were litigated in the trial courts, or a citation showing the volume in which the case was reported if concluded by an appeal. The date on which the matter was handled should likewise be shown, together with the nature of the action, whether contract, tort, etc.

3. When referring to such actions as the organization of corporations, state specifically that "On the following dates I organized the following corporations," etc., giving specific information concerning each corporation organized, and follow this same procedure when including such actions as the organization of partnerships, drafting of wills, etc., by stating, "On the following dates I organized the following partnerships, this action including the following—"; "I drafted the will of _____ on these dates, such actions having involved the following—"; and follow this method of giving specific information concerning all your actions during the period of time when you were engaged in the practice of law that is being covered by the abstract.

4. Give some thought to preparing this document in a lawyer-like fashion and file it with an original and four carbon copies.

5. Include samples of the quality of your work, such as pleadings, briefs, legal memoranda, corporate charters or other working papers which you consider illustrative of your expertise, your academic and your legal training.

6. Your abstract should confine itself to the most recent ten years of your practice.

Please find enclosed two copies of an affidavit. Please execute one copy and attach it to the original of your abstract of practice when filing that document with this office. You may retain the second copy for your files.

The majority of applicants possess baccalaureate and law degrees and automatically meet the technical qualifications for admission into the examination. The only actions required by the Board in these cases are the final determinations of character and fitness. However, it will be necessary for the Board to determine your technical qualifications in advance, and for this reason, it would be to your distinct advantage to file your abstract at the earliest possible date.

Any questions which you may have are welcomed.

APPENDIX C

PETITIONER'S MEMORANDUM RELATING TO ABSTRACT OF PRACTICE

RE: *ABSTRACT OF PRACTICE*

The attention of the Board is respectfully called to the fact (as disclosed in the application) that the applicant has not been engaged in the practice of law since 1950, almost 23 years ago and, starting with 1933 up to 1943 there was an interval from 1943 to 1947 when it was again resumed up to 1950. In these circumstances, with my records disposed of, any details would be impossible to furnish.

However, I have had the occasion to prosecute more recently an action pro se. It involved personal injuries and property damage to myself and wife because of negligence, was placed on the calendar of the Supreme Court Queens County for trial (State of New York) after a motion for a change of venue from Bronx County. As the time for selection of the jury arrived a conference between all sides was held in the chambers of the justice of the Court and the matter was settled.

In this connection I am attaching to the papers a copy of my marked pleading (complaint) on the assumption that the answer, stipulations, motions for summary judgment and venue change, bill of particulars, notices to admit and availability for medical examination, readiness statement and note of issue are not also desired.

However, the nature of my practice when I was so engaged, is succinctly set forth in answer to question 102(d) and supplies the best picture thereof that can be furnished at the present time.

JULIUS P. CROWNE

APPENDIX D

PETITION TO THE SUPREME COURT OF FLORIDA

SUPREME COURT OF THE STATE OF FLORIDA

x.....x

In the Matter of the Application of

JULIUS P. CROWNE

For Admission to the Spring, 1973
Bar Examination.

x.....x

State of New York
County of Queens } ss

The Amended Petition of JULIUS P. CROWNE respectfully shows to this Honorable Court:

1. The First Paragraph of he [sic] original Petition should read "Board of Bar Examiners" in place of "Board of Law Examiners."

2. The Third Paragraph thereof should be amplified to indicate that the arbitrary action complained of also constituted a deprivation of your Petitioner's constitutional rights in that he was denied the opportunity of a hearing to determine how the Board arrived at its decision that he was not qualified to take the Bar Examination; that it is evident that such action is being attributed to the fact that your Petitioner has no evidence to submit, after the more than (22) years since he ceased the

general practice of law, of having been an outstanding attorney at that time; and that, having once been a practising [sic] attorney, he is not to be granted the same privilege of going through the burden of a Bar Examination which he is willing to undergo as anyone else is permitted to do.

3. To the best of your Petitioner's knowledge, investigation of the Application is continuing subsequent to said denial with a scrutiny as to character and fitness which your Petitioner is confident can only support him at the very least equal to most of the other candidates.

WHEREFORE, your Petitioner respectfully requests that the relief sought herein be granted.

JULIUS P. CROWNE

Sworn to before me this
28 day of February, 1973

APPENDIX E

SECTION B OF APPLICATION TO THE FLORIDA BOARD OF BAR EXAMINERS

SECTION B

(This section must be completed by all applicants who have been admitted to practice law in any jurisdiction or court.)

100. (a) Please name all jurisdictions and courts, State and Federal, in which you have been admitted to practice law and give dates of admission.

Jurisdiction	Court	Date of Admission

I have enclosed (or requested and will forward later) certificate(s) as to my current standing in each of the above jurisdictions, both State and Federal.

(b) Please state in which, if any, of the above jurisdictions and courts you were required to appear before any board committee or other examining authority for examination or inquiry about any matter, other than on examination upon legal subjects, in connection with your application with your application for admission to practice law, and the name and address of any such authority.

(c) Please state the exact names and locations of courts before which your actual practice of law was chiefly conducted.

Name of Courts	Location of Courts

(d) Have you been entitled to practice in each of the jurisdictions and courts specified in your answer to this question 100 continuously from the date you first became so entitled until the date hereof?———
Yes or No

If not, please state the dates during which you have been so entitled, the nature of disqualification, the facts, and the name and address of the authority in possession of the records thereof.

101. (a) Have you ever been disbarred? ———
Yes or No

(b) Have you ever been suspended from practice? ———
Yes or No

(c) Have you ever been reprimanded, censured or otherwise disciplined? ———
Yes or No

(d) Have any charges or complaints, formal or informal, ever been made or filed or proceedings instituted against you? ———
Yes or No

(e) Have you ever appeared, formally or informally, before a grievance or other similar committee of any bar association or other law group? ———
Yes or No

If an affirmative answer is given to any of the foregoing questions, please state the date, the nature of the charge, the facts, disposition of the matter, and the name and address of the authority in possession of the records thereof.

102. Please make a complete statement of your practice of the law since first being admitted to practice in any jurisdiction or court. Include temporary or part-time work. Please state as to each employment or period of private practice:

(a) The periods during which you were employed as an attorney, or engaged in private practice, with the dates.

(b) The exact addresses of the offices, including room numbers or places at which you were so employed or engaged and the names and addresses of all employers, partners, associates, or persons sharing office space, if any.

(c) The nature and extent of your duties or practice.

(d) The reason for the termination of each employment or period of private practice.

(a)	(b)	(c)	(d)
Inclusive Dates	Exact Addresses, Names of Employers, Associates, etc.	Nature of Practice	Reason for Termination

APPENDIX F

RULES GOVERNING FLORIDA BAR EXAMINATIONS

Rule 1 (e)

1945

(e)—RELATING TO THE ADMISSION OF FOREIGN ATTORNEYS. Attorneys at law in good standing in other states may be permitted to take the State Bar Examination to be admitted to the Bar in Florida, (1) upon furnishing similar requirements of good character and fitness as are required of other candidates to take the examination, and (2) upon producing such evidence as the State Board of Law Examiners may require, that said applicant has been in the general practice of law for at least ten years immediately preceding the date of his application to take the examination, that he is in good standing at the Bar of the State from which he comes, and (3) the State Board of Law Examiners may require an abstract showing the scope and Character of the applicant's previous experience and practice at the Bar, his academic and legal training and his cultural background. If a thorough consideration of this abstract shows that the applicant is a lawyer of high character and ability, that his professional conduct has been above reproach, and that his academic and legal scholarship conform to approved standards and sum up to the equivalent of that required of other candidates for admission to the examination, the State Board of Law Examiners may in its discretion admit such foreign attorney to the examination. In evaluating academic and legal scholarship, the Board of Law Examiners is clothed with a broad discretion and as basis for credit may take into consideration high school attendance, college attendance, law school attendance, night school attendance, study under a preceptor, study in a law

office, lecture courses, independent study and research or any other method of study that it deems worthy of credit. The applicant's experience as a practitioner may also be considered in this connection.

Adopted by the Supreme Court of Florida, July 27, 1945, effective on said date.

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SUPREME COURT, U. S.
FILED
OCT 30 1973
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1972

No. 73-19

IN THE MATTER OF THE APPLICATION OF

JULIUS P. CROWNE

For Admission to the Bar Examination of Florida

REPLY BRIEF IN BEHALF OF THE PETITIONER

JULIUS P. CROWNE,
In Proper Person,
87-10 51 Avenue,
Elmhurst, N. Y. 11373.
(212) 271-5383

IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. 73-19

In the Matter of the Application of

JULIUS P. CROWNE

For Admission to the Bar Examination of Florida

REPLY BRIEF IN BEHALF OF THE PETITIONER

Corrections to the Brief Offered by the Respondent

1. The order of the Supreme Court of Florida denying rehearing is found at Appendix, Page 9A of this petition; it is the letter of the Board itself that may be found at Appendix, Page 10A of this petition by which it denied the renewed application of the Petitioner and not such order as set forth in the Brief of the Respondent.

2. The Respondent has attached to its brief Appendix D, Page 20 and refers to it as the petition to the Supreme Court of Florida. That petition is not part of the record thus far. What Respondent has attached is the *amended* petition.

Reasons Why the Brief of the Respondent Have No Merit

1. The whole purpose of the Petitioner is to sit for the Bar Examination in order to prove his legal scholarship. The Respondent's opposition is sought to be sup-

ported on the theory that the petitioner is seeking an *automatic license* to practice law.

2. The Respondent bases this support on *Brooks* v. *Laws,* 208 Fed. 2d 18 (incorrectly cited by it as 208 Fed. 18) in which a Petitioner was applying for admission to the Bar *without examination* and the Court say at page 18, last paragraph, "In papers filed in this proceeding by respondents it is shown that Brooks filed thirteen applications for admission to the Alabama bar and took the examination eight times but did not pass it; . . ." The Petitioner in that case was a graduate of La Salle University, a correspondence school, who was seeking admission on the basis of five years of the practice of law most of it in governmental service not requiring any license to practice law.

3. The Respondent takes the position that the difference in fees between residents and non-residents of the State of $110.00 and $400.00 for admission to the Bar Examination can be justified by a case (involving petitioners of varied interests) in which the difference between the fee for a noncommercial fishing license of $5.50 charged to a non-resident and $3.25 to a resident was involved. *American Commuters Association* v. *Levitt,* 279 F. Supp 40 at p. 48 (S. D. N. Y.). At the same time it presents the case of *Toomer et al.* v. *Witsell et al.,* 334 U. S. 385 which the Petitioner has offered in support of this writ, with a contrary inference. It appears to be making this argument in connection with the unfounded premise that the Petitioner has taken some stand regarding the differential with relation to "other out-of-state applicants". Page 2, Respondent's brief under Questions Presented for Review (Queston 3). The Court is concerned only with ***residents and non-residents*** of the State.

4. The Respondent offers no standard by which this Court can consider how to determine whether one's academic and legal scholarship sum up to the equivalent of that required of other candidates. "Other candidates" may well mean almost all of the candidates; and these "other" ones are those who have never been admitted to the practice of law in any State, while the Petitioner not only passed his Bar Examination 40 years ago but also practiced law over the years, after having been licensed to do so many years before many of them had arrived into the world. The academic proof has already been furnished and further proof of scholarship now rests with passing the Bar Examination.

5. The Petitioner has exhausted all remedies available to him below and obviously this Court can not be prevailed upon to impose upon him the performance of a futile act. The action of the Board dated May 31, 1973 denying his *renewed* application merely makes it an additional part of the record; the time to apply for a writ of certiorari to review the denial by the Florida Supreme Court of rehearing would not be extended by any further futile act. On the contrary to allow time to elapse in so applying would have made the petitioner vulnerable in reverse to the technical objection that his time to apply for this writ had already expired.

6. The contract which the Petitioner urges has been impaired is the right to seek to practice his chosen profession without unconstitutional hindrance as a citizen of the United States.

7. The original petition in the Court below was based upon an attack against the provisions of Article IV, Section 22 (a) and (b) of the Rules Relating to Admission to the Florida Bar since, as explained therein, the Peti-

tioner had ceased the general practice of law a generation previously and should not be obliged to resort to Section 22 (c) in order to qualify.

8. The amended petition in the Court below amplified the original petition in order to embrace the unconstitutionality of the arbitrary action of the Respondent, which was made under Section 22 (c).

9. The petition for rehearing was based upon an attack against the combined provisions of Article IV, Section 22 (a), (b) and (c) of those Rules.

10. The present Rules relating to admissions to the Bar were adopted following the enactment of L. 1955, c. 29796, sec. 1, 2, 7 FSA 454.021 and 454.022; and also, L. 1961, c. 61-530, sec. 10. Article V of the Constitution of the State of Florida, referred to at page 8, paragraph numbered 4 of the Respondent's brief, contains a section 23 (which it does not cite) which relates to the admission and discipline of attorneys and which was not adopted until November 6, *1956*. All of the dates involved are subsequent to the time of petitioner's graduation from law school in 1932 and admission to the Bar in 1933.

11. In Appendix F, at page 26 of the Respondent's brief it appears that a Rule 1 (e) of Rules Governing Florida Bar Examinations was promulgated in 1945. This Rule contained no provision whatever for including in the abstract of practice "samples of the quality of the applicant's work, such as pleadings, briefs, legal memoranda, corporate charters or other working papers which the applicant considers illustrative of his expertise" as the present Rule Article IV, Section 22 (c) does. Rule 1 (e) of 1945, in its last sentence, further provided "The

applicant's experience as a practitioner may also be considered in this connection" (in evaluating academic and legal scholarship). The present rule upon which the Respondent has based its decision contains no such provision.

12. The position that the decision of the Respondent regarding Petitioner's practice was a substantive determination is untenable not only in view of its subjectiveness but also in view of its retroactiveness under its rules. In addition to the abstract of practice, supplemental abstract and documentary proof presented by the Petitioner to the Respondent there should have been given due consideration to the time lapse of 23 years and allowance made for it, or, in the alternative, at least a hearing on notice before any outright denial.

CONCLUSION

The petition for a writ of certiorari should be granted.

JULIUS P. CROWNE,
In Proper Person,
87-10 51 Avenue,
Elmhurst, N. Y. 11373.